

D. Maimon Kirschenbaum (DK 2448)
JOSEPH & HERZFELD LLP
757 Third Avenue
25th Floor
New York, NY 10017
(212) 688-5640
(212) 688-2548 (fax)

*Attorneys for Named Plaintiffs and the FLSA
Collective Plaintiffs*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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**SALIM SHAHRIAR, MUHAMMAD ISLAM,
AND MARY HARVEY on behalf of
themselves and all others similarly situated,**

INDEX NO: 08-cv-00057

Plaintiffs,

v.

**SMITH & WOLLENSKY RESTAURANT
GROUP, INC. d/b/a PARK AVENUE
RESTAURANT AND FOURTH WALLS
RESTAURANTS LLC, d/b/a PARK
AVENUE RESTAURANT,**

Defendants.

-----X

DECLARATION OF MASUD AHAD

I, Masud Ahad, under penalty of perjury, affirm as follows:

1. I was employed by Defendants as a captain at Park Avenue Café within the last three years, and I am an opt-in Plaintiff in this lawsuit.
2. Throughout my employment at Park Avenue, I was paid less than the federal minimum wage.
3. When I began working at Park Avenue, I was informed by Santiago Pasentez, manager, that the restaurant requires tipped employees to pool their tips.

4. I was never asked whether I wanted to be in the tip-pool, and the terms of the tip pool were maintained and enforced by the restaurant's management, not the servers or similarly tipped employees.

5. Throughout my employment at Park Avenue, Park Avenue required us to share our tips with managers, by allowing the managers to be part of the tip-pool.

6. For example, Roger (last name unknown), a manager at the restaurant and referred to by all employees as a manager, participated in the tip-pool.

7. In an attempt to conceal Roger's participation in the tip-pool, his share is reflected in the "Barista" section of the tip-out sheet, under the initials 'RM' instead of his full name.

8. Roger's job duties were to manage the restaurant and the bar, and he was introduced to us as a manager.

9. Roger frequently closed the restaurant, and we needed Roger's permission to leave the restaurant.

10. I witnessed Roger interview employees for hire.

11. I was written up and disciplined by Roger.

12. Roger's primary job duties include: (a) supervising all activity on the floor, (b) disciplining employees, (c) dealing with customer complaints, (d) holding daily meetings with servers in preparation for each shift, (e) verifying the money reports at the end of each night, and (f) sending employees home early.

13. Roger was frequently the most senior Park Avenue member present in the restaurant.

14. When for any given reason a charge was to be 'comped', *i.e.*, voided, Roger had authority and routinely authorized these voids for the servers.

15. When a customer asked to speak to a manager, they were often referred to Roger.

16. Roger had authority to send free meals or items to customers.

17. Roger had special cards or access codes with which he could access the computer system to perform managerial functions such as changing the prices of items, comping items, voiding checks, reopening closed checks, reauthorizing checks, etc.

18. Syed Hussain and Roy Nantu were coffee makers that never communicated with customers or provided direct customer service. Their job duties were simply to make coffee.

19. Mr. Hussain and Mr. Nantu were illegally allowed by Park Avenue to participate in the tip-pool.

20. Peppe Bhuit was a Park Avenue employee whose primary job duties were to polish silver and glass, and he never communicated with customers or provided direct customer service.

21. Peppe Bhuit was illegally allowed by Park Avenue to participate in the tip-pool.

22. In addition, there were two expeditors that were part of the tip-pool each night. Their primary duties were to call the orders into the kitchen, and they never communicated with customers or provided direct customer service.

23. Park Avenue never provided with any accounting regarding how tips were distributed. They simply handed out envelopes with money at the end of the night. Accordingly, I have no way of knowing whether all of the tip money received on any given night was distributed into the tip-pool.

24. Attached as Exhibit A is a tip-out report reflecting Mr. Bhuit and Mr. Nantu's participation in the tip-pool.

I affirm, under penalty of perjury, that the above and foregoing information is true and correct.

Dated: New York, New York
February 12, 2008

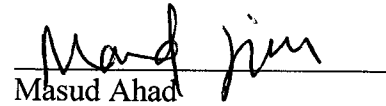

Masud Ahad

EXHIBIT A

Park Avenue
Dining Room Tip Sheet

DINNER
Saturday
November 3, 2007

Points

Captain	Points	Cash Tip	O/C Tip	Tip Total
1 Andy Rankin		\$0.00	\$0.00	\$0.00
2 Ariel Ojeda	6	\$7.13	\$246.02	\$253.15
3 Jeff Fritz	6	\$7.13	\$246.02	\$253.15
4 Larry Sayward		\$0.00	\$0.00	\$0.00
5 X Ltz Laufer		\$0.00	\$0.00	\$0.00
6 Michael Naranjo		\$0.00	\$0.00	\$0.00
7 Remy Pilly	6	\$7.13	\$246.02	\$253.15
8 X Sal Shahiar	6	\$7.13	\$246.02	\$253.15
9 X Sam Islam		\$0.00	\$0.00	\$0.00
10 Quincy Loring	5	\$5.95	\$205.01	\$210.96
11 Bobbi Kim		\$0.00	\$0.00	\$0.00
12 Thom Cyburt	6	\$7.13	\$246.02	\$253.15
13 Sean Montgomery	6	\$7.13	\$246.02	\$253.15
14 Jordan Reeves		\$0.00	\$0.00	\$0.00
15 Suzanne Stone		\$0.00	\$0.00	\$0.00
16 Danny Walton		\$0.00	\$0.00	\$0.00
17 X Raymon Taylor		\$0.00	\$0.00	\$0.00
18 Masud Ahad	6	\$7.13	\$246.02	\$253.15
19 0		\$0.00	\$0.00	\$0.00
20 0		\$0.00	\$0.00	\$0.00
21 0		\$0.00	\$0.00	\$0.00

Bartenders	Points	Cash Tip	O/C Tip	Tip Total
1 0		\$0.00	\$0.00	\$0.00
2 0		\$0.00	\$0.00	\$0.00
3 0		\$0.00	\$0.00	\$0.00
4 Sorina Max		\$0.00	\$0.00	\$0.00
5 Melissa Bart		\$0.00	\$0.00	\$0.00
6 Tessa		\$0.00	\$0.00	\$0.00
7 Chingiz	6	\$7.13	\$246.02	\$253.15
8 x		\$0.00	\$0.00	\$0.00
9 0		\$0.00	\$0.00	\$0.00

Waiters / Runners	Points	Cash Tip	O/C Tip	Tip Total
1 Carlos Torres	4.5	\$5.35	\$184.51	\$189.86
2 David Cazares	4.5	\$5.35	\$184.51	\$189.86
3 Emin Gavrilov	4.5	\$5.35	\$184.51	\$189.86
4 Mahbub Malik	4.5	\$5.35	\$184.51	\$189.86
5 Mr.B Sarker	4.5	\$5.35	\$184.51	\$189.86
6 Ramiro Valdez	4.5	\$5.35	\$184.51	\$189.86
7 Shuhel Ahmed	4.5	\$5.35	\$184.51	\$189.86
8 Vincent Herrera	4.5	\$5.35	\$184.51	\$189.86
9 Feliciano Hernandez	4.5	\$5.35	\$184.51	\$189.86
10 Daniel Herrera	4.5	\$5.35	\$184.51	\$189.86
11 Valentino Flores	4.5	\$5.35	\$184.51	\$189.86
12 Christian Aspajo	4.5	\$5.35	\$184.51	\$189.86
13 JD Naranjo	2	\$2.38	\$82.01	\$84.38
14 0		\$0.00	\$0.00	\$0.00
15 0		\$0.00	\$0.00	\$0.00
16 Seha Jayanta		\$0.00	\$0.00	\$0.00
17 Carlos Fernandez	4.5	\$5.35	\$184.51	\$189.86
18 0		\$0.00	\$0.00	\$0.00
19 Adrian Amigon	4	\$4.76	\$164.01	\$168.77
20 Enamul Shakur	4	\$4.76	\$164.01	\$168.77
21 Javier Osorio	4	\$4.76	\$164.01	\$168.77
22 Lipton Barman	4	\$4.76	\$164.01	\$168.77
23 Saruk Miah		\$0.00	\$0.00	\$0.00
24 Mr T	4	\$4.76	\$164.01	\$168.77
25 0		\$0.00	\$0.00	\$0.00
26 0		\$0.00	\$0.00	\$0.00
27 David Ward	6	\$7.13	\$246.02	\$253.15
28 0		\$0.00	\$0.00	\$0.00
29 Mary Harvey	4.5	\$5.35	\$184.51	\$189.86
30 Kendra Treichler	4.5	\$5.35	\$184.51	\$189.86
31 0		\$0.00	\$0.00	\$0.00

Barista	Points	Cash Tip	O/C Tip	Tip Total
1 Little "Peppe"	2	\$2.38	\$82.01	\$84.38
2 Roy Nantu	2.5	\$2.97	\$102.51	\$105.48